

# JONES DAY

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September 6, 2018

Via ECF and Fax (212-805-7927)

Honorable Naomi Reice Buchwald  
United States Courthouse  
500 Pearl St.  
Courtroom 21A  
New York, NY 10007

**RE: Defendant Macy's Status Report**  
**Docket No.: 17-cv-05192-NRB, Reyes Orellana et al. v Macy's Retail Holdings Inc.**

Dear Judge Buchwald:

On behalf of Defendant Macy's Retail Holdings Inc. ("Macy's"), I submit the following report regarding the status of Plaintiffs' interlocutory appeal, the status of settlement discussions, and a proposed case management plan for class certification briefing.

As this Court is aware, Plaintiffs filed a notice of interlocutory appeal on August 9, seeking review of the partial denial of leave to amend the complaint and the denial of Plaintiffs' request for leave to move to enforce the preliminary injunction. Macy's contends that this appeal is procedurally improper, and intends to file a motion to dismiss with the Second Circuit in the coming days.

In addition, as Your Honor instructed at the July 31 status conference, Macy's has engaged with Plaintiffs regarding the possibility of reaching settlement. Macy's has approached these discussions in good-faith, but despite its best efforts, the parties have not yet been able to agree on the structure such a settlement should take. These discussions are continuing, and it remains possible that a negotiated resolution can be achieved.

Meanwhile, as these settlement discussions proceed, Macy's proposes that parties press forward with class certification briefing. Plaintiffs have already signaled their readiness to brief the issue, as they requested leave to file a motion for class certification earlier this summer, claiming that the issue was "ripe for certification." ECF No. 39. Furthermore, Plaintiffs already filed for class certification once before while this case was proceeding in New York state court. Thus, Plaintiffs have made clear that they are ready to move forward with class certification, and Macy's proposes that a briefing schedule be set as follows:

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- Plaintiffs file their motion for class certification within 30 days;
- Macy's files its opposition 30 days thereafter;
- Plaintiffs have 14 days for a reply.

This schedule will materially advance this long pending case, and may also provide a sense of urgency to the on-going settlement discussions.

Sincerely,

/s/ Meir Feder

Meir Feder  
*Counsel for Defendant Macy's*